



Phillips Lytle LLP

Via ECF

May 24, 2024

Hon. Michael J. Roemer
United States District Court
Robert H. Jackson United States Courthouse
2 Niagara Square
Buffalo, New York 14202

Re: *Grand'Maison, M.D. v. Roswell Park Comprehensive Cancer Center, et al.*
Case No. 1:23-cv-00099 (JLS) (MJR)

Dear Judge Roemer:

We represent Defendants and write in response to the letter by Plaintiff dated May 13, 2024 (Dck. No. 57).

On April 4, 2024, Defendants met and conferred in good faith with Plaintiff. During that meet and confer, Defendants' counsel agreed to consult with Defendants regarding what types of responsive documents, if any, exist for six categories of documents.¹ Plaintiff acknowledges these were some of the "more challenging disagreements" between the parties (Dck. No. 57).

In furtherance of their commitment, Defendants' counsel met with numerous client representatives in an effort to determine what, if any, responsive documents exist for the six discovery categories. Counsel is continuing to work with the Defendants to identify such documents, and Defendants expect to make a supplemental production of

¹ These categories were described in Plaintiff's letter to the Court dated February 26, 2024 (Dck. No. 47). Specifically, Defendants' counsel agreed to review Plaintiff's inquiry regarding extensions of probationary periods for physicians in Dr. Grand'Maison's departments (Category H); documents related to rescissions of employee resignations (Category I); "high level" documents related to the structure of Roswell Park Comprehensive Center ("Roswell") (Category J); documents related to complaints of discrimination/retaliation by physicians who Plaintiff identifies as similarly situated to herself, if any (Category K); documents related to the rate of approval for requests for second opinions in Dr. Carl Morrison's cases by Plaintiff and employees she has identified as similarly situated (Category M); and documents related to restrictions on witness communications, if any (Category N).

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relevant, non-privileged documents in the near future. Notably, pursuant to the Court's Second Amended Case Management Order (Dck. No. 53), the deadline by which fact discovery is to be completed in this matter is not until September 30, 2024.

Finally, despite the Court's directive at the March 5, 2024 conference for the Parties to "try to work" together to agree upon an appropriately tailored ESI protocol (Dck. No. 57-1, at pp. 19-20), Plaintiff refused to engage in any discussion of an ESI protocol at the Parties' April 4th meet and confer. As Defendants previously explained to the Court, Defendants have been conducting a review of terabytes of data using a proposed ESI protocol sent to Plaintiff in November 2023, which Plaintiff has never provided any comments regarding and which Plaintiff has refused to sign. Defendants respectfully request this Court's assistance in advancing discussions on this topic.

Respectfully,

Phillips Lytle LLP

By s/ Amanda L. Lowe

Amanda L. Lowe

ALL

cc: David E. Gottlieb, Esq. (via ECF and email)
William R. Baker, Esq. (via ECF and email)